

REMARKS

Claims 1-10 and 18-37 are pending herein with Claims 1, 18, and 37 being independent claims. Claim 37 is allowed; Claims 6-7, 10, 18-20, 22-25, 27-29, and 32 are rejected; and Claims 8, 9, 21, 26, 30, 31, and 33-36 are objected to. Claim 1 is amended herein.

35 U.S.C. §102:

Claims 1-5, 7, and 10 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,079,315 to Beaulieu, et al. Beaulieu was described as showing a beverage system for brewing a beverage with a cartridge as described in U.S. Patent No. 5,840,189 to Sylvan, et al. Sylvan describes a filter element 14 with the coffee extract 38 therein. The filter is positioned within a container 12 and covered with a lid 16.

The Applicant submits that the amendments made herein, namely that the sealing layer surrounds the beverage material, overcomes the rejection. As shown in, for example, Figs. 1 and 2 of Sylvan, the brewing material 38 is positioned within the filter 14. The lid 16 acts to seal the top of the filter but the rest of the filter is unsealed within the cartridge. Sylvan thus does not show a sealing layer surrounding the beverage material. The Applicant respectfully submits that the claim and its dependant claims thereon are patentable. The Applicant notes that the use of top and bottom seals 830, 850 is described in the specification herein at page 17, lines 28 – page 18, line 3.

The Applicant further traverses the rejection of Claim 7 concerning the force of the injection head for the reasons described above and because the reference appears to be silent on such.

35 U.S.C. §103:

Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Beaulieu in view of U.S. Patent No. 5,992,298 to Illy, et al. Illy was described as showing the use of an

eccentric cam 34 in a drive system for maneuvering an injection head. The Applicant respectfully traverses the rejection for the reasons described above with respect to Claim 1. The Applicant further traverses the rejection on the grounds that although Illy does describe the use of an eccentric cam, it appears to use such for opening the coffee compartment as opposed to maneuvering an injection head assembly. *See* Col. 6, lines 31-38.

35 U.S.C. §103:

Claims 18-20, 22-25, and 27-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,134,924 to Vicker in view of U.S. Patent No. 5,472,719 to Favre. In response to the last Office Action, the Applicant pointed out that Claim 18 specifically calls for a plate to include a plurality of apertures sized to accommodate the beverage material containers. The Applicant further stated that each of the pockets 30 of Vicker leads to a nozzle 32 so as to collect the beverage as it flows therein. The Applicant thus asserted that Vicker does not show the aperture limitation as called for herein. In response, the Examiner stated that the arguments were fully considered but not found persuasive in that the "pockets 30 of Vicker do not lead to a funnel 32, they carry a funnel."

In response, the Applicant continues to traverse the rejection. Accepting as true that the pockets 30 of Vicker do not lead to the funnel or the nozzle 32, but rather carry the funnel, then clearly the pockets 32 are not "sized to accommodate the beverage material containers" as is called for in the claim. Rather, the pockets 30 are clearly sized to accommodate the nozzle 32. Although the nozzle 32 is clearly sized to accommodate the beverage material containers, there is now no dispute that the pockets 30 themselves are not so sized. The Applicant thus asserts that Claim 18 and the dependant claims thereon are patentable.

The Applicant further traverses the rejection of dependant Claim 20 concerning a limit switch for the reasons described above and on the grounds that the cited references are silent on such. The Applicant further traverses the rejection of dependant Claim 27 for the reasons given above and because the cited references appear to be silent on the specific force range.

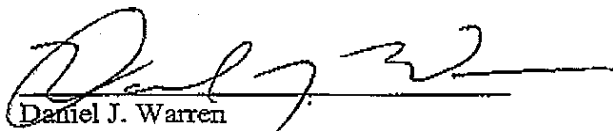
35 U.S.C. §103:

Claim 32 was rejected under 35 U.S.C. as being unpatentable over Vicker in view of Favre and in further view of U.S. Patent No. 5,855,161 to Cortese. The Applicant respectfully traverses the rejection for the reasons described above.

CONCLUSION

The Applicant believes it has responded to each matter raised in the Office Action. Any questions may be directed to the undersigned at 404.853.8028.

Respectfully submitted,


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